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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,197	01/02/2004	Sean William Tucker	10017979-5	2535

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,197

Applicant(s)

TUCKER, SEAN WILLIAM

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/19/04, 03/04/05.</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS 07/18/05.</u> |

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DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

2. Claims 11 and 12 are objected to because of the following informalities:

Claim 11 (line 1) recites "wherein each of said bracket brackets comprises including a pair of "L" brackets, each of the "L" brackets". It should recite --wherein said brackets comprise a pair of L-brackets, each of the L-brackets--.

Claim 12 (line 1) recites "comprises rigid fasteners". It should recite --comprises a rigid fastener--.

Claim 12 (line 2) recites "said "L" brackets, wherein the first legs of said "L" brackets". It should recite --said L-brackets, wherein the second legs of said L-brackets--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikura et al. (US 5,797,412).

As to claim 1, Ishikura et al. disclose a fastening system comprising:

a means **5,51** for rotatably attaching a first mount bracket **2,3,11** to a first assembly **4**;

a means **5,51** for rotatably attaching a second mount bracket **12,33** to a second assembly **4**; and

a means **32** for connecting the first mount bracket to the second bracket in at least two positions along a rotational axis (Figures 1-6).

As to claim 2, Ishikura et al. disclose a fastening system wherein the first mount bracket **2,3,11** is connected to the second mount bracket **12,33** by a rigid attachment comprising a machine screw **32** (Figure 4).

As to claim 3, Ishikura et al. disclose a fastening system wherein the first **2,3,11** and second **12,33** mount brackets have a common axis (bolts **21**) of rotation about which the rigid attachment **32** rotates (Figures 3 and 4).

As to claim 5, Ishikura et al. disclose a fastening system wherein the means **32** for connecting comprises means for enabling the first mount bracket **2,3,11** and the

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second mount bracket **12,33** to rotate together about a common axis (bolts **21**; Figures 3 and 4).

As to claim 6, Ishikura et al. disclose a fastening system wherein the means **32** for connecting comprises means for separating a portion **11** of the first mount bracket **2,3,11** from a portion **12** of the second mount bracket **12,33** by space (Figure 3).

As to claim 7, Ishikura et al. disclose a fastening system wherein at least one of the means **5,51** for rotatably attaching comprises an assembly screw **51** and an insert **5** (Figure 3).

As to claim 8, Ishikura et al. disclose a fastening system wherein the insert **5** is a threaded insert and the assembly screw **51** screws into the threaded insert (Figure 3).

As to claim 9, Ishikura et al. disclose a fastening system wherein connecting means comprises a machine screw **32** (Figure 4).

As to claim 10, Ishikura et al. disclose a fastening system wherein the first mount bracket **2,3,11** further comprises at least one means **2,3** for manually grasping and positioning of the fastening system (Figure 2).

5. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter (US 5,797,412).

As to claim 1, Carter discloses a fastening system comprising:

a means **67,70** (Figure 6) for rotatably attaching a first mount bracket **54,130** (Figure 16) to a first assembly **22** (Figure 13);

a means **67,70** for rotatably attaching a second mount bracket **54,130** to a second assembly **22**; and

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a means **136** for connecting the first mount bracket to the second bracket in at least two positions along a rotational axis (Figures 6,13,14 and 16).

As to claim 2, Carter discloses a fastening system wherein the first mount bracket **54,130** is connected to the second mount bracket **54,130** by a rigid attachment comprising a machine screw **136** (Figure 16).

As to claim 3, Carter discloses a fastening system wherein the first **54,130** and second **54,130** mount brackets have a common axis (bolt **136**) of rotation about which the rigid attachment rotates (Figure 16).

As to claim 4, Carter discloses a fastening system wherein the first **54,130** and second **54,130** mount brackets each comprise first **122,54** and second **128** perpendicular arm portions, the first arm portions **122,54** having means **67,70** for fastening structures for rotatably securing the first and second mount brackets to respective structures **22** and the second arm portions **128** comprising a rigid attachment **136** (Figures 6,13 and 16).

As to claim 5, Carter discloses a fastening system wherein the means **136** for connecting comprises means for enabling the first mount bracket **54,130** and the second mount bracket **54,130** to rotate together about a common axis (bolt **136**; Figure 16).

As to claim 6, Carter discloses a fastening system wherein the means **136** for connecting comprises means for separating a portion **122,54** of the first mount bracket **54,130** from a portion **122,54** of the second mount bracket **54,130** by space (Figure 6).

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As to claim 7, Carter discloses a fastening system wherein at least one of the means **67,70** for rotatably attaching comprises an assembly screw **67** and an insert **70** (Figure 6).

As to claim 8, Carter discloses a fastening system wherein the insert **70** is a threaded insert and the assembly screw **67** screws into the threaded insert (Figure 6).

As to claim 9, Carter discloses a fastening system wherein connecting means comprises a machine screw **136** (Figure 16).

As to claim 10, Carter discloses a fastening system wherein the first mount bracket **54,130** further comprises at least one means **54** for manually grasping and positioning of the fastening system (Figure 13).

As to claim 11, Carter discloses a fastening system wherein the brackets comprise a pair of L-brackets **130**, each of the L-brackets having a first leg **128** and a second leg **122,54** (Figure 16).

As to claim 12, Carter discloses a fastening system wherein the connecting means **136** comprises a rigid fastener for removably joining together the first legs **128** of the L-brackets **130**, wherein the second legs **122,54** of the L-brackets are separated by space (Figure 16).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).


7. Claims 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,672,787. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the application encompass the limitations of the patent. The limitations of claims 1-12 of the application are obviously met by claims 1-5 of the patent because it is obvious that the "means for rotatably attaching a first mount bracket", the "means for rotatably attaching a second mount bracket", and the "means for connecting said first mount bracket to said second bracket" of instant claim 1 is encompassed by the "first mount bracket rotatably attached", "the "second mount bracket rotatably attached", and the "rigid attachment between said first mount bracket and said second mount bracket" of patent claim 1, and that the "first and second perpendicular arm portions" of patent claim 1 constitute the "L-brackets" of instant claim 11.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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